DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

Published in advance of incorporation in DPM Chapter 531
Retain until superseded

DPM LETTER: 531- 1

SUBJECT: Revision of the Maximum Payable Rate Rule

DATE: JUN 11 1990

The Office of Personnel Management (OPM) issued the attached final regulations governing the maximum payable rate rule on April 19, 1990, with an effective date of May 21, 1990.

These regulations authorize departments and agencies to approve the use of a special rate as an employee's highest previous rate upon reassignment without obtaining advanced approval from OPM. The authority to make such a decision is delegated by OPM to a single designated official within each department or agency. Within the Department of Transportation, this authority will be retained in the Office of the Secretary of Transportation (OST).

Operating Administrations' requests to use a special rate in determining the maximum payable rate should be submitted in writing to Diana L. Zeidel, Director of Personnel, M-10, Room 9100. Your request should include a brief description of how an employee's services, and his or her contribution to the organization's programs, will be greater in the regular rate position to which reassigned than the special rate position occupied. Decisions on these requests will be made on a case by case basis.

If you have any questions on this matter, please contact Jan Karicher of my staff on 366-9450.

Director of Personnel

Attachment

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Rules and Regulations

Federal Register
Vol. 55, No. 76
Thursday, April 19, 1990

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206-AD44

Pay Under the General Schedule

AGENCY: Office of Personnel Management

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing the "maximum payable rate" rules to allow agencies, under certain conditions, to use a special rate of pay as the employee's "highest previous rate" upon reassignment (within the same agency) to a non-special rate position under the General Schedule. In addition, OPM makes final certain other revisions in the "highest previous rate" provisions of the regulations to clarify and simplify the rules governing Federal agencies' pay-setting actions. These final regulations are part of a continuing effort to simplify and deregulate the Federal personnel system.

EFFECTIVE DATE: May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Robert T. Gatewood, (202) 632-5056.

SUPPLEMENTARY INFORMATION: On March 31, 1989, OPM published proposed regulations (54 FR 13196) to allow agencies to make the determination to use a special rate as an employee's "highest previous rate" when reassigning employees to non-special rate positions within the same agency. In addition, OPM wanted to simplify the "highest previous rate" provisions of the regulations and to make final certain other changes in the regulations to clarify pay-setting determinations for Performance Management and Recognition System (PMRS) employees under the "maximum payable rate" rule. The 60-day public comment period ended on May 30, 1989. Comments were received from fifteen agencies and one individual. Comments are summarized below, along with certain changes in, or clarifications of, the proposed regulations.

Comments on Definition of "Highest Previous Rate"

Four agencies commented on the proposed changes in the definition of "highest previous rate." One agency suggested that OPM restrict the use of the "highest previous rate" upon an employee's reinstatement to those situations in which the break in service was 5 years or less. This suggestion is not adopted because agencies already have the necessary authority to restrict the use of a former employee's "highest previous rate" as suggested. Another agency suggested that OPM expand the definition to include a list of agencies covered by the definition. OPM finds it would be impractical to include such a list in this definition. In doubtful cases agencies may wish to contact OPM for advice. Two agencies reported that the phrase, "at the discretion of the employing agency," appearing at the end of § 531.202(f)(1), created confusion and suggested that the phrase be deleted from the definition. We agree and have deleted this phrase.

Comments on "Maximum payable rate" Rule for PMRS Employees

Four agencies and one individual commented on the proposed changes in the "maximum payable rate" rule for setting pay upon movement into a PMRS position. One agency expressed confusion about the applicability of the "maximum payable rate" rules in the case of an employee moving to the PMRS from a non-General Schedule pay system. The regulations at § 531.203(c)(2) apply in all movements to a PMRS position—including movement from a non-General Schedule position. Others commenting suggested changes in the proposed regulations to clarify and simplify the method of computing the "highest previous rate." Still others pointed out typographical errors in the regulations. While it is true, as one agency commented, that these rules prevent agencies from paying less than step 1 or more than step 10, the rules themselves are intended to prescribe the limitations on how pay is set in specific fact situations. For example, an employee whose pay in 1987 was below the 1987 minimum rate for GM-13 would be eligible only for the minimum rate for GM-13 on the current rate range. Similarly, an employee whose former rate was greater than step 10 of the pay range would be eligible for a rate of pay not in excess of the rate for step 10 of the current rate range upon reemployment at the same grade.

One individual suggested an alternative method for calculating the employee's relative position in the former rate range using a shortened procedure. The degree of accuracy required by the method incorporated in the proposed and final regulations is necessary to ensure that merit increases, which depend upon an employee's relative position in the rate range, are properly calculated and paid. This need for exactness in pay-setting for PMRS employees precludes adopting this commenter's shortened method of computation.

One agency suggested that OPM require agencies to calculate the relative position in the rate range to at least seven decimal places. We have adopted this suggestion in order to guarantee uniformly precise pay-setting practices for PMRS employees, since, as stated above, the employee's position in the rate range is critical to the treatment given the employee's pay when merit increases are calculated.

In response to several requests for an illustration of this rule (§ 531.203(c)(2)(i)), consider the following example: In March 1987, a supervisory auditor, GM-511-14, with an annual salary of $49,752, resigned her position, but was subsequently reinstated by a second agency, in June 1989, to another supervisory auditor position also at GM-14. At the time of the employee's resignation in March 1987, the GM-14 rate range had a minimum rate of $45,763 and a maximum rate of $59,488.

First, find the difference between the employee's "highest previous rate" and the minimum rate by subtracting the minimum rate ($45,763) from the employee's salary ($49,752). The remainder ($3,989) is (a) in the formula. Next, find the difference between the maximum rate for the range ($59,488) and the minimum rate ($45,763). The remainder ($13,725) is (b) in the formula. Divide (a)—$3,989—by (b)—$13,725. The

quotient (c)—0.2906375—carried to the seventh decimal place (and truncated, rather than rounded), is the factor representing the employee's relative position in the former rate range.

Second, use the pay rates in effect in June 1989 for the grade to which the employee is assigned. The minimum rate for GM-14 is $48,592, and the maximum rate is $63,172. Subtract the current minimum rate ($48,592) from the current maximum rate ($63,172). The remainder ($14,580) is (d) in the formula. Multiply (d)—$14,580—by (c)—0.2906375, and add the product ($4,237.49) to the minimum rate ($48,592) for the grade in which pay is being fixed. The result ($52,829.49) should be rounded up to the next *higher* whole dollar, for a new annual salary of $52,830. This method allows for placement of the employee once again in the middle third of the rate range.

Comments on Basis for "Highest Previous Rate"

Three agencies and one individual commented on changes proposed in the rules governing the basis for an employee's "highest previous rate." For a variety of reasons, all commenters objected to the proposed 120-day service requirement. In response to these comments, we have revised the regulations to eliminate this requirement. Instead, Federal agencies will continue to be permitted to use a pay rate as an employee's "highest previous rate" without regard to the length of time the employee held the position, as long as the appointment itself was not limited to 90 days or less. However, the final regulations permit agencies to establish specific service requirements at their discretion.

Three agencies and one individual commented on the requirement that an employee must be temporarily promoted for 1 year or more before the employee's pay, on return to the former grade, can be set using the temporary rate as the "highest previous rate." The agencies objected to this requirement, suggesting instead that OPM remain silent on this issue. One individual suggested that OPM establish a service requirement for employees on time-limited promotion of 2 years, instead of 1 year, as we had proposed. The requirement to serve 1 year or more on a time-limited promotion before the employee's pay is set using the temporary rate of pay as the "highest previous rate" is an appropriate way to prevent abuse of this pay-setting authority. To promote an employee temporarily and then set pay at the higher rate at the conclusion of a short-term promotion has the effect of advancing the employee's pay in the permanent rate range at a faster than usual rate. In the event of outstanding performance by an employee temporarily assigned to a higher level or broader range of duties, the appropriate method of recognizing such performance would be through a one-time performance award or incentive award. OPM is not adopting the suggestion to delete this requirement from the proposed regulations.

Three agencies commented on the rule prohibiting the use of a rate as the "highest previous rate" when that rate was received in a position from which the employee was reassigned after failing to complete satisfactorily a probationary period as a supervisor or a manager. One agency suggested that this prohibition be eliminated, while two other agencies wanted to expand this provision to include a rate earned by any employee reduced in grade for failure to perform satisfactorily or for cause. Failure to complete a probationary period as a first-time supervisor or manager should have the same effect on pay as the return to a permanent position after a temporary promotion. However, it would be administratively difficult to expand this provision to cover employees not serving under a supervisory probationary period when the employee is reduced in grade for performance or cause. An employee in the middle and upper thirds of the rate range may have performed in a fully successful manner for 1 or more years of a waiting period before his or her performance deteriorated to a less than fully successful level. We believe a requirement prohibiting the use of a salary earned during periods of fully successful performance simply because *current* performance is rated less than fully successful would be unfair. Therefore, we have not adopted these suggestions.

Ten agencies commented on the proposal to use an employee's special rate as the "highest previous rate." Nine agencies concurred with OPM's proposal to delegate, without prior approval from OPM, the authority to use a special rate as an employee's "highest previous rate" upon a finding that the employee's contribution to the program of the agency will be greater in the position to which the employee is reassigned. However, these agencies suggested that the proposed rule be expanded to permit the use of special salary rates as the basis for setting pay upon reemployment after a break in service, upon transfer between agencies at the same grade level, or in a voluntary change to lower grade. Expanding the circumstances under which a special rate may be used as an employee's "highest previous rate" is beyond the scope of OPM's original proposal. Therefore, we are unable to adopt these suggestions with the issuance of final regulations. However, we will continue to consider the suggestions for changes in the future, once OPM has had a chance to evaluate the effect of the changes we are making.

One agency expressed confusion about the use of an employee's special rate as the "highest previous rate" in a reassignment. In response to this comment, we would point out that this pay-setting flexibility is available to agencies on any reassignment—not just management-directed reassignments. However, agencies must make a written determination that the employee's services and contributions to the program of the agency will be greater in the new position.

Five agencies and one individual commented on the proposed 120-day service requirement for employees in special rate positions. Two agencies suggested changing the 120-day service requirement to a 90-day requirement. Three agencies and the individual objected to the proposed service requirement in its entirety. However, two of these agencies stated that, if adopted, the requirement needed clarification. We are modifying the proposal at the suggestion of the commenters by deleting the requirement. This is consistent with the current "highest previous rate" regulations, which do not include a service requirement. We reiterate, however, that when agencies use the special rate as the employee's "highest previous rate," the special rate of pay must be the employee's *current* rate of basic pay.

Two agencies objected to the proposed requirement that agencies make written determinations in support of decisions to base an employee's "highest previous rate" on a special rate of pay. We believe the requirement for a written determination will help maintain the integrity of the special rates program.

In the mistaken belief that the special rate of pay could be retained under the pay retention provisions at 5 CFR 536.104(a)(4) or (b), the individual commenter suggested deleting the proposed requirement for a written determination. Retaining an employee's pay under 5 CFR 536.104(a)(4) is appropriate only when management *directs* the employee's movement from a special rate to a non-special rate position. The regulations at 5 CFR 536.105(a)(3) preclude retaining an employee's pay when the employee's

reassignment from the special rate position is for cause or "at the employee's request." Selection from a merit promotion certificate is considered to be "at the employee's request" in most cases because the employee must apply for consideration under the vacancy announcement. In such cases, however, the final "highest previous rate" regulations will give management discretionary authority to determine for itself whether or not the employee's special rate should be used in setting the employee's pay in the non-special rate position. For information on situations in which pay retention is permissible under 5 CFR 536.104(b) when an employee moves to a non-special rate position, see Federal Personnel Manual bulletin 531–138, June 14, 1989.

One agency pointed out that the reference to § 532.403, cited as the regulation governing special rate provisions under the prevailing rate (wage) system, is incorrect. The reference should be to § 532.231 and has been corrected in the final regulations.

Miscellaneous Comments

Finally, there were a number of comments of a miscellaneous nature. One agency suggested that OPM specify that the "highest previous rate" does not include a cost-of-living allowance (COLA). We find it unnecessary to adopt this suggestion because the "highest previous rate" of pay is based on the definition of "rate of basic pay," which excludes COLA. (See § 531.202(i).) One agency suggested that OPM specify that the special rate is considered the employee's existing rate of pay when the employee is promoted from a special rate position to a non-special rate position. Section 531.204(a)(3) already includes this provision.

In addition, certain editorial changes to correct printing errors and improve the clarity of certain other sections have been made.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, since they apply only to Federal employees and agencies.

List of Subjects in 5 CFR Part 531

Government employees, Wages, Administrative practice and procedure.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending part 531 of Title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5338, and Chapter 54; Subpart B also issued under 5 U.S.C. 5305(q), 5333(a), 5334(a), 5402, and section 203 of E.O. 11721, as amended; Subpart C also issued under 5 U.S.C. 5333(b) and section 404 of E.O. 11721, as amended; Subpart D also issued under 5 U.S.C. 5301, 5335, and section 402 of E.O. 11721, as amended; Subpart E also issued under 5 U.S.C. 5336 and section 403 of E.O. 11721, as amended.

2. In § 531.202, paragraph (f) is revised to read as follows:

§ 531.202 Definitions.

* * * * *

(f) "Highest previous rate" means—

(1) The highest actual rate of basic pay previously received by an individual while employed in a position in a branch of the Federal Government (executive, legislative, or judicial); a Government corporation, as defined in 5 U.S.C. 103; the United States Postal Service or the Postal Rate Commission; or the government of the District of Columbia (except as provided in § 531.203(d)(2)(v) of this part); without regard to whether the position was subject to the General Schedule; or

(2) The actual rate of basic pay for the highest grade and step previously held by an individual while employed in a position subject to the General Schedule.

* * * * *

3. In § 531.203, the introductory language in paragraph (c) and paragraphs (c)(2) and (d) are revised to read as follows:

§ 531.203 General provisions.

* * * * *

(c) *Maximum payable rate rules.* In determining an employee's rate of basic pay upon reemployment, transfer, reassignment, promotion, demotion, or change in type of appointment, the following rules apply unless the employee is entitled to a higher rate under the promotion provisions of 5 U.S.C. 5334(b) and 531.204(a) of this part or the grade and pay retention provisions of 5 U.S.C. 5362 and 5363 and part 536 of this chapter:

* * * * *

(2) *For PMRS employees.* The maximum rate of basic pay that may be paid an employee covered by the Performance Management and Recognition System shall be determined as follows. Compare the employee's highest previous rate (expressed as an annual rate) with the range of rates of basic pay *in effect at the time the highest previous rate was earned* for the grade in which pay is currently being fixed. If the employee's highest previous rate was less than or equal to the minimum rate for the grade in which pay is being fixed, the maximum rate of basic pay that may be paid the employee is the minimum rate for the grade in which pay is being fixed. If the employee's highest previous rate was equal to or greater than the maximum rate for the grade in which pay is being fixed, the maximum rate of basic pay that may be paid the employee is the maximum rate for that grade. If the employee's highest previous rate was greater than the minimum rate, but less than the maximum rate for the grade in which pay is being fixed, the maximum payable rate shall be determined as follows:

(i) Using the pay rates in effect at the time the highest previous rate was earned for the grade in which pay is being fixed, find the difference between the employee's highest previous rate and the minimum rate for that grade—(a). Find the difference between the maximum rate and the minimum rate for the same grade—(b). Divide (a) by (b); carry the result to the seventh decimal place; and truncate, rather than round, the result. This quotient—(c)—is a factor representing the employee's relative position in the rate range.

(ii) Using current pay rates, find the difference between the maximum rate and the minimum rate for the grade in which pay is being fixed—(d). Multiply (d) times the factor (c). Add the product of this multiplication to the minimum rate for the grade in which pay is being fixed. This figure, rounded to the next higher whole dollar, is the maximum rate of basic pay that may be paid the employee.

(d) *Basis for highest previous rate.* (1) Except as otherwise provided in this paragraph, the highest previous rate may be based on a regular tour of duty at any rate of basic pay received by an individual while serving under an appointment not limited to 90 days or less, or for a continuous period of not less than 90 days under one or more appointments without a break in service.

(2) The highest previous rate may not be based on the following:

(i) A rate received under an appointment as an expert or consultant under 5 U.S.C. 3109;

(ii) A rate received in a position to which the employee was temporarily promoted for less than 1 year, except upon permanent placement in a position at the same or higher grade;

(iii) A rate received in a position from which the employee was reassigned or reduced in grade for failure to complete satisfactorily a probationary period as a supervisor or manager;

(iv) A rate received under a void appointment or a rate otherwise contrary to applicable law or regulation;

(v) A rate received by an employee of the government of the District of Columbia who was first employed by that government on or after October 1, 1987; or

(vi) A special rate established under 5 U.S.C. 5303 and part 530 of this chapter; § 532.231 of this chapter; or other legal authority; unless, in a reassignment to another position in the same agency—

(A) The special rate of pay is the employee's current rate of basic pay; and

(B) An agency official specifically designated to make such determinations finds that the need for the services of the employee, and his or her contribution to the program of the agency, will be greater in the position to which he or she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate.

(3) In the case of an employee who has received or is receiving a special rate established under 5 U.S.C. 5303 and part 530 of this chapter, § 532.231 of this chapter, or other legal authority; who is placed in a position in which a special rate does not apply; and for whom the special rate is *not* used as the highest previous rate under paragraph (d)(2)(vi) of this section; the highest previous rate may be based on the rate of basic pay for the step (or relative position) in the regular rate range that corresponds to the employee's existing step (or relative position) in the special rate range for the employee's current grade or pay level.

* * * * *

[FR Doc. 90-9090 Filed 4-18-90; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; EC-1]

Equal Credit Opportunity; Update to Official Staff Commentary; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation; correction.

SUMMARY: The Board is making a correction to its final official staff interpretation of Regulation B which appeared in the Federal Register on April 4, 1990 at 55 FR 12471.

FOR FURTHER INFORMATION CONTACT: In the Division of Consumer and Community Affairs, Adrienne D. Hurt, Senior Attorney, or Jane Ahrens, Staff Attorney, at (202) 452-2412; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Correction

The following correction is made in FR Doc. 90-7706, Equal Credit Opportunity; Update to Official Staff Commentary:

On page 12472, col. 2, second line from the bottom "and keeping records" should be deleted.

Board of Governors of the Federal Reserve System, April 13, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-9084 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from Schering Corp. to Schering-Plough Animal Health Corp.

EFFECTIVE DATE: April 19, 1990.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, has informed FDA that it has changed the name and address of the animal health division to Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (2) to reflect the new corporate name and address

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry "Schering Corp." and alphabetically adding "Schering-Plough Animal Corp." and in the table in paragraph (c)(2) in the entry "000061" by revising the sponsor name and address to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	*
Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033.....	000061
* * * * *	*

(2) * * *

Notices

Federal Register
Vol. 55, No. 59
Tuesday, March 27, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COMMITTEE ON FEDERAL PAY

Meetings

The Advisory Committee on Federal Pay announces that public discussions of the adjustment in Federal white-collar employee pay for Fiscal Year 1991 have been scheduled for Tuesday, April 24, in Suite 600, 1730 K Street, NW., Washington, DC. They will start at 1:30 p.m.

These discussions are intended to give organizations representing Federal employees or any interested government employees an opportunity to express their views on the proposed 3.5 percent pay increase scheduled for January 1991, proposed pay reform legislation based on local labor market rates, recruitment and retention problems, reduced qualifications for personnel, and any other issues. Those wishing to discuss these issues with the Committes should notify the Committee by April 20. The telephone number is 653–6193. Written comments should also reach the Committee by April 20—Suite 205, 1730 K Street, NW., Washington, DC 20006. Both written submissions and requests for an opportunity to discuss the issues should include a telephone number where the organization or official can be reached.

Additionally, the Advisory Committee will be meeting in three cities outside Washington, DC.

The hearings will cover the same topics and have been scheduled as follows:

May 1, 1:00 to 4 p.m., in Boston Massachusetts, in the Thomas O'Neill Federal Office Building, Auditorium, 10 Causeway Street, Boston, Massachusetts 02222. Those wishing to present a brief 10-minute statement should contact Lt. E.J. Janse, Executive Director, Federal Executive Board (617) 223–8480.

May 15, 1:30 to 4 p.m., in San Antonio, Texas, Office of Personnel Management, Hearing Room, Suite 306, 8610 Broadway, San Antonio, Texas 78217. Those wishing to present a brief 10-minute statement should contact Lu Tanner in Washington, DC (202) 653–6193. A local contact in San Antonion is Ruben Molina (512) 229–6613.

May 22, 1 to 4 p.m., in St. Louis, Missouri, Old Federal Post Office and Court House Building, Room 302, 815 Olive Boulevard, St. Louis, Missouri 63101. Those wishing to present a brief 10-minute statement should contact Jack L. Collis, Executive Director, Federal Executive Board (314) 539–6312.

The Advisory Committee on Federal Pay, established as an independent agency by section 5306 of Title 5, United States Code (Pub. L. 91–656, the Federal Pay Comparability Act), is charged with assisting the President in carrying out the policies of section 5301 of Title 5, United States Code. The Committee's fundamental obligation is to present the President with an independent recommendation on Federal pay for the 1.4 million white-collar workers and other employees whose pay is linked to the General Schedule. Section 5306 of Title 5 requires the Committee to make findings and recommendations to the President on the annual adjustment in Federal pay after considering the written views of employee organizations, the President's Agent, other officials of the Government of the United States, and such experts as the Committee may consult.

Lucretia Dewey Tanner,

Executive Director.

[FR Doc. 90–6929 Filed 3–6–90; 8:45 am]

BILLING CODE 6820–43–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting; Postponement and Rescheduling

In the **Federal Register** of Thursday, February 22, 1990, (55 FR 6297), the U.S. Department of Agriculture (USDA), Science and Education, announced a meeting of the Agricultural Biotechnology Research Advisory Committee (ABRAC) for March 22–23, 1990. This notice announces postponement of the ABRAC meeting and rescheduling to the dates specified below.

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. No. 92–463, 86 Stat. 770–776), USDA, Science and Education, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee

Date: April 23–24, 1990.

Time: 9 a.m. to approximately 5 p.m. on April 23; 9 a.m. to approximately 3 p.m. on April 24

Place: The Clark Room, Capitol Holiday Inn, 550 C Street SW., Washington, DC., 20024.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research. The major item to be considered at this meeting is the development of guidelines for biotechnology research in agriculture.

Contact Person: Dr. Alvin L. Young, Executive Secretary, Agricultural Biotechnology Research Advisory Committee, U.S. Department of Agriculture, Office of Agricultural Biotechnology, Room 321–A, Administration Building, 14th and Independence Avenue SW., Washington, DC., 20250. Telephone (202) 447–9165.

Done at Washington, DC., this 14th day of March 1990.

Charles E. Hess,

Assistant Secretary, Science and Education.

[FR Doc. 90–6897 Filed 3–26–90; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Record of Decision Concerning Seven Peaks Resort; Uinta National Forest; Utah and Wasatch Counties, Utah

The Decision

It is my decision to adopt Alternative 3 of the Final Environmental Impact

Statement (FEIS) for the Seven Peaks Resort, dated March 1, 1990, which proposed development of a year-round resort in Provo Peak Basin within the Uinta National Forest. My decision is based on the analysis documented in the FEIS, and dependent upon compliance with Federal and State laws and local ordinances that apply to this proposal.

Skiing use in the State of Utah has been increasing each year (R-4 Summary, "Skier Visit Data by Season" 1967–1988). The public has expressed strong support for the development or recreation facilities and use opportunities for a wide variety of recreation activites (Forest Plan). Many area recreation resorts are heavily used, resulting in requests for expansion of special use permits and more facility development.

In many instances, access to the existing developments is the limiting factor in increasing use capacity. The growing population of Utah Valley is resulting in the need for more recreation opportunities. The Selected Alternative will provide facilities closer to populated areas at the southern end of the Wasatch Front and expand recreation use. A development, as proposed, will add to the attraction of Utah as a destination area for winter sports and enhance the year-round resort appeal of the northern Utah area as well, with minimal comparative access problems.

Alternative 3 proposes a permit boundary that encompasses approximately 3,010 acres, with access via a funicular on a 6,100-foot long track up the face of Maple Mountain. Capacity for the first portion of the development is 5,396 skiers at one time. Maximum capacity within the permit area could be as much as 8,000 skiers at one time.

The Selected Alternative includes a 200-unit Inn on Maple Flat, as many as 7 ski lifts, a pulse tram, and 3 warming lodges. It would provide a wide variety of recreation opportunities for a varied recreation user public, while preserving many of the existing use opportunities. It responds to user demands, public issues, and managment concerns, while giving consideration to critical environmental values.

Environmental impacts from construction, operation, and maintenance can be kept within acceptable levels established by laws and regulations, with implementation of mitigation measures and management practices outlined in Chapter IV of the FEIS.

Of the Alternatives considered, I find the Selected Alternative provides for the highest standard of resource management. It responds to user demands, public issues and management concerns, is the most economically efficient of the options considered, and is in compliance with standards and guidelines and management direction established in the *Uinta National Forest Land and Resource Management Plan*, approved by the Regional Forester on October 3, 1984.

I have determined that implementation of the Selected Alternative will not cause unreasonable risk of significant irreparable damage to watershed resource conditions, wildlife populations, or other resource values. Potential risks can be mitigated by regulating the amount and timing of vegetative cover disturbances and implementing the prescribed restoration activities (FEIS, pages IV-21–23, IV-32–33, and IV-36). Impacts to the 17.5 acres of riparian and wetlands identified within the project boundary can be mitigated by implementation of the prescribed mitigating measures (FEIS, page IV-42).

One threatened and endangered species, the Peregrine falcon, is present near the proposed development, but through mitigation requirements, falcon habitat will not be affected (FEIS, page IV-59).

Scenic values offered by undeveloped mountain landscapes cannot be completely mitigated. This can be offset by the positive recreation values offered by the proposal (FEIS, pages IV-43–48). All practicable means to avoid or minimize environmental harm from implementation of the proposed action have been adopted and are embodied in the mitigating measures of the FEIS and the Forest Plan.

Changes to vegetative cover created by the Selected Alternative will reduce the visual quality of the area. Feathering edges of openings in the vegetative cover, revegetating disturbed areas, and sensitive location of man-made features will minimize the impact. A monitoring and enforcement program as required by the Forest Plan and the FEIA shall be adopted for all implementation and management activitives.

Decision Rationale

The rationale used in identifying the Forest Service's Selected Alternative is based on information gathered during the scoping, analysis, and public review process (appendix M and chapters I, II, III, IV, and VI of the FEIS). Factors considered in making the Alternative selection were: (1) Effect on renewable and nonrenewabnle resources (chapter IV and appendix F), (2) physical and biological changes that would result from implementation (chapter IV appendix G), (3) social and economic effects of the proposed development (chapter I), (4) public benefits vs. environmental costs (chapter III), and (5) how the Alternatives respond to the identified issues, concerns, and opportunities (ICO's) (chapter IV).

Ski area development is a legitimate use of National Forest System lands. Construction, operation, and maintenance of the resort facility in the Provo Peak Basin area would be totally within public control. There would be no private lands involved in the proposed development. Most private lands encroached by facility development would be acquired by the proponents and transfemed to the Forest Service in fee. Other activities that do not detract from resort facility development will continue within the permit boundary.

The analysis documented in the DEIS and FEIS indicates development under all the alternatives would be within the carrying capacity of the resources involved. Issues to provide additional recreation use opportunities, maintain visual quality, protect critical wildlife habitat, maintain soil/air/water resource values, and ensure an economic use of National Forest System lands were determined to be most significant. These issues, with the exception of visual quality, can be successfully resolved within the proposed permit boundary by implementing the prescribed mitigating measures outlined in the Forest Plan and Chapter IV of the FEIS.

Issues concerning the capability of the area resources to support the proposed development, identified during the review of the Draft Environmental Impact Statement, were addressed in the mitigating measures and development standards detailed in Chapter IV of the FEIS.

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Alternatives Considered

Alternatives considered in detail included:

Alternative No. 1, "No Action" (Environmentally Preferable) [FEIS, Chapter II, pages II-3 through II-6]—Alternative 1 was not selected because it did not meet the growing demands of the recreation public or the goals of the National Recreation Initiative to provide